

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2014-350-C - ORDER NO.**

**IN RE:APPLICATION OF AIR VOICE
WIRELESS LLC d/b/a FEELSAFE
WIRELESS FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS
CARRIER IN THE STATE OF SOUTH
CAROLINA**

) **ORDER DESIGNATING AIR VOICE**
) **WIRELESS, LLC d/b/a FEELSAFE**
) **WIRELESS AS AN ELIGIBLE**
) **TELECOMMUNICATIONS CARRIER**
) **FOR PURPOSE OF OFFERING**
) **LIFELINE SERVICE**

This matter comes before the Public Service Commission of South Carolina (the “Commission”) on the above captioned application of Air Voice Wireless, LLC d/b/a Feelsafe Wireless (“Air Voice”) for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of South Carolina (the “Application”).

For the reasons explained herein, the Commission has concluded that the Application should be approved and that designation of Air Voice as an ETC on the terms provided in this Order would serve the public interest.

BACKGROUND

The application to designate Air Voice as an ETC is supported by the Commission on the verified Application with an approved FCC Compliance Plan, filed on August 15, 2014, the verified testimony of Melissa Kallabat filed on October 1, 2014, and a Stipulation entered into between Air Voice and the South Carolina Office of Regulatory Staff (“ORS”) filed with the Commission on October 17, 2014 (the “Stipulation”).

The Applicant in this matter was represented by Charles L.A. Terreni, and the ORS was represented by Andrew M. Bateman and C. Lessie Hammonds. As directed by the Commission, notice of the filing of the Application was published in *The State* newspaper and proof of publication was filed with the Commission on August 29, 2014. No petitions to intervene were filed in this matter. ORS is a party pursuant to statute.

The Stipulation recommends that Air Voice be designated as an ETC for the limited purpose of providing Lifeline service to qualified households in accordance with the terms contained therein, including but not limited to Air Voice's agreement to comply with all terms and conditions of its FCC approved Compliance Plan and to submit any changes or modifications to the Compliance Plan to the Commission and the ORS within five (5) days of filing at the FCC. . A copy of the Stipulation is attached hereto as "Exhibit A", and its terms are incorporated by reference.

On October 20, 2014, Air Voice filed a motion requesting that the Commission waive the hearing scheduled for November 5, 2014, at 10:00 a.m., admit the Testimony and exhibits into the record, and grant expedited consideration and approval of the Application. ORS did not object to this Motion.

Having considered the record before it, the Commission finds that the record is sufficient to make a final determination in this matter and that the interests of judicial economy are served by waiving the hearing and granting expedited consideration and approval of the Application.

ANALYSIS

Section 214(e)(2)(e) of the Telecommunications Act of 1996 (the “Act”) authorizes state commissions to designate common carriers that meet the requirements as ETCs.¹ Section 103-690 of the S.C. Code Reg. provides that the Commission will fulfill its responsibility to designate common carriers as ETCs and establishes the requirements that an applicant must meet in order to be designated an ETC.²

As demonstrated in the Application, the Testimony, the Stipulation, and the Company’s Compliance Plan, Air Voice satisfies all the relevant requirements for designation as an ETC specified in Sections 254 and 214 of the Act and Section 103-690 of the S.C. Code Reg. Air Voice is (i) a common carrier as defined by 47 U.S.C. Section 153(10), (ii) offers all the supported services,³ (iii) a provides its pre-paid voice service plans, including a Lifeline plan, through the resale of AT&T wireless networks, and (iv) offers service throughout its designated service area. Additionally, it has been demonstrated that following designation Air Voice will (v) advertise the availability of its Universal Service offerings and charges through media of general distribution, specifically its Lifeline services throughout its ETC service area, and will provide notices at local unemployment, social security and welfare offices in satisfaction of S.C. Code Reg. Sections 103-690, 1E(a)(1) and 103-690.1E(b)(1), (vi) make Lifeline service available to qualifying low-income consumers without requiring a service deposit in order to initiate Lifeline Service if the consumer elects toll limitation services, will not charge such customer a monthly number portability charge, will verify annually that its Lifeline customers meet the qualifications and will provide sixty days

¹ 47 U.S.C. Section 214(e)(2).

² See S.C. Code Reg. Section 103-690C.

³ 47 U.S.C. Section 254(c); 47 C.F.R. Section 54.101(a); and S.C. Code Reg. Section 103-690C(a).

notice to customers which it believes no longer qualify for Lifeline service,⁴ (vii) certify that it complies with the service requirements applicable to the support it receives, (viii) be able to remain functional in emergency situations,⁵ (ix) satisfy consumer protection and service quality standards which are set forth in the CTIA Consumer Code as described in the Application including annual certification of its compliance and reporting of consumer complaints in accordance with S.C. Code Reg. Sections 103-690(C)(1)(a)(C)(3) and 103-690.1B(b)(4), (x) provide Lifeline local usage plans comparable to the incumbent local exchange carriers already operating in the area, (xi) comply with applicable reporting requirements including, but not limited to annual progress reports required in S.C. Code Reg. Section 103-690.1, annual certification that it is able to remain functional in emergency situations required by S.C. Code Reg. Section 103-690.1B(b)(2) and annual outage reporting requirements of S.C. Code Reg. Section 103-690(B)(b)(2) and (xii) as explained below, take steps to limit fraud, waste and abuse in the federal universal fund programs.

On February 6, 2012, the FCC adopted comprehensive reforms to the low-income program to revise the Lifeline service requirements.⁶ In the Lifeline Reform Order, the FCC adopted specific reforms attempting to limit fraud, waste and abuse in the low-income program. Air Voice commits to compliance with the rules as they are applicable.

Section 103-690C(b) of the S.C. Code Reg. provides that in determining whether an ETC designation is in the public interest the Commission must consider, *inter alia*, the benefits of increased consumer choice and the unique advantages and disadvantages of the applicant's service offering. Considering these factors and others, the Commission determines that it is in the public

⁴ See S.C. Code Reg. Section 103.690.1E(a)-(b).

⁵ S.C. Code Reg. Section 103-690(C)(a)(2).

⁶ *In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 11-42, FCC 12-11, released February 6, 2012. ("Lifeline Reform Order").

interest that the Commission grant Air Voice ETC designation for the limited purpose of providing Lifeline service. In addition, and consistent with federal findings, the Commission agrees that a creamskimming analysis is not required as a public interest test in the case of carriers seeking ETC designation for the limited purpose of offering Lifeline Services.

IT IS THEREFORE ORDERED THAT:

- I. The Testimony and the Stipulation are accepted into the record without objection.
- II. The Applicant's Motion to Waive the Hearing and Expedite Consideration is granted.
- III. Any changes or modifications to the Company's FCC approved Compliance Plan will be filed with the Commission, with a copy to ORS, within five (5) days of filing at the FCC.
- IV. Subject to the terms and conditions herein, Air Voice Wireless, LLC d/b/a Feelsafe Wireless is hereby designated as an ETC for the limited purpose of providing Lifeline service as requested in the Application on the terms provided in the Stipulation. A copy of this order shall be promptly provided by the Commission to the FCC and the Universal Service Administrative Company.

BY ORDER OF THE COMMISSION:

Nikiya “Nikki” Hall, Chairman

ATTEST:

Swain E. Whitfield, Vice-Chairman

(SEAL)